

**REMARKS**

Applicant notes with appreciation the detailed comments that the Examiner made in the Office Action. The present claim amendments are responsive to the Examiner's concerns noted in the Office Action.

**A. 35 USC 101**

The Examiner rejected claims 1-4, 7 and 8-11 as non-statutory. Applicant amended independent claims 1 and 8 to specify that the inventive process is a computer implemented process carried out via a network. This brings claims 1 and 8 in line with similar language recited in claims of the referenced U.S. Patent No. 6,598,026 to Ojha, which presumably was held to recite statutory language.

**B. 35 USC 103****a. Summary of the Invention**

**The computer implemented auctioning process of the present invention is buyer initiated or buyer driven. This is different from the conventional auctioning processes, which are seller initiated or seller driven.**

The Examiner continues to confuse the roles between **buyer and sellers (in the disclosed embodiment, service providers) or biddee (the party requesting bids) and bidders (the party submitting bids)**. The Examiner failed to appreciate that in the present invention, the **bidders are sellers of services. The buyer is not a bidder** in the present invention, but a

**biddee.** The auction is open to **sellers/bidders** for bidding against each other, for the benefit of a **buyer/biddee**. The present invention is not directed to an auction in which several buyers bid for the goods or services of one seller.

In accordance with one aspect of the present invention, at the outset of the auction, the **biddee (not the bidders)** specifies the  $N$  best bids to be displayed for the **biddee's** consideration in awarding the bid to a **bidder/seller among all the seller bidders**. By specifying  $N$  at the start of the bid process, the **bidders** are "motivated" to try for the bid even though some of them may not qualify for the best bid based on price alone, but may stand to be awarded the bid based on factors other than best pricing. The **biddee** has more choices in selecting a **seller bidder** from  $N$  **seller bidders**, based on factors other than best pricing. Accordingly, the higher the value of  $N$ , the more options for the **biddee buyer**. However, while a larger  $N$  provides more options, it is also inherent in this process that the **biddee** would have to live with the compromise of less competitive price bidding in view of the increased opportunities for the **bidders** to compete on factors other than pricing.

In other words, on the **seller bidder** side, since the value of  $N$  is made known to the **seller bidders** on the outset of the auction, **seller bidders** would bid in a way such that even when one of the **sellers** knows that it cannot bid the lowest price, such seller can still have a chance to compete by trying to have its bid fall within the  $N$  best bids to obtain consideration by the **buyer biddee**. By requesting to see fewer bids (smaller  $N$ ), the **buyer biddee** would have less opportunity to evaluate service providers based on factors other than pricing, thereby encouraging fierce price competition (e.g., when  $N=1$ , maximum price competition, but no option for the **biddee**). The reverse is true, when  $N$  is larger, the **biddee** has more choices in

selection from N best bids from **bidders**, but the **bidders** would tend not to bid as aggressively, knowing that their bids would be considered as long as they fall within the N best bids.

The net effect is that the **biddee** by specifying N best bids, can effectively control the price/options tradeoff at the onset of the auction process, and encourage the **bidders** to provide their lowest bids when pricing is important (small N). This lets the buyers make their final decision based on factors in addition to price, and yet at the lowest price possible given the options.

In another aspect of the present invention, a rating system is employed to rate the **biddee**'s history of following through with bid awards in prior auctions initiated by the same buyer. The buyer's rating is made known to the **seller binder** before the service provider submits a bid, so that the seller binders can consider the **biddee**'s rating before bidding.

b. Distinctions from the References

All the pending independent claims have been amended to specify that the **bidders are sellers of services**, and given that the buyer selects a seller from the bidders, the auction is **buyer driven**. Given that the inventive auction is **buyer driven**, the **biddee (NOT bidders)** sets forth N, the number of best bids to be considered, at the start of the auction. Further, it is the rating of the **biddee (NOT bidders)** that is being made available to the bidders.

In fact, regardless of whether the **bidders** are buyers or sellers, and whether the **biddee** is a buyer or seller, the clear distinguishing factor is that for the present invention, it is **biddee driven**. The **biddee** specifies the number N, and the rating of the **biddee** is being made available to the **bidders**.

None of the prior art, taken alone or in combination, discloses or makes obvious the present invention.

c. Ojha

Ojha is directed to a seller driven auction. For Ojha, the bidders are buyers, not sellers as in the present invention. Further, specifically referring to all the independent claims, Ojha does not teach or suggest an auction system or process in which the bidders are sellers of services.

The Examiner pointed to specific sections in Ojha, where support for the claimed limitations are supposed to be found. However, Applicant failed to follow how the sections in Ojha as referenced by the Examiner in the office action are applicable. For example, Applicant does not see where at col. 1, lines 20-43 and col. 15, lines 30-44, did Ojha disclose buyer biddee specifying at the start of the auction the number N of best bids to be considered from the auction, as proposed by the Examiner. Ojha instead discloses buyer bidders.

The Examiner misread the Ojha reference. Contrary to the understanding of the Examiner, Ojha is not a buyer driven auction process. Ojha does not disclose that the buyer is a biddee, and one who limits the number of bids to be considered at an auction because of tradeoff. Instead, Ojha is directed to a system or process in which the buyer is submitting the bidding (i.e., a bidder), in direct contradiction to the present invention. The sections in Ojha referenced by the Examiner do not support the Examiner's contention. Instead, col. 3, lines 20-43 in Ojha states that the "reputation" of the buyer bidder is tracked, including consideration of the relationship of the number of bids submitted by a particular buyer bidder to the number of bids

honored or reneged by that buyer bidder. This in no way relates to limiting the number of bids (by sellers binders) to be considered by the buyer, as required by claims 1, 13 and 20.

Further, since the buyers in Ojha who are submitting bids are being rated by the seller, it is different from the present invention defined by claims 8, 25 and 26, in which the ratings of buyer biddee are being considered by the seller binder. Col. 15, lines 30-44 in Ojha discloses that the seller biddee may consider the reputation of the buyer binder's reputation, not the buyer biddee's reputation.

d. Ojha in view of Saito

Saito does not make up for the deficiencies of Ojha. Saito does not disclose or suggest any of the deficiencies of Ojha noted above. Saito is also not directed to a buyer driven auction.

**CONCLUSION**

In view of all the foregoing, Applicant submits that the claims pending in this application are patentable over the references of record and are in condition for allowance. Such action at an early date is earnestly solicited. **The Examiner is invited to call the undersigned representative to discuss any outstanding issues that may not have been adequately addressed in this response.**

Respectfully submitted,



Dated: January 26, 2006

Wen Liu  
Registration No. 32,822

LIU & LIU  
444 S. Flower Street; Suite 1750  
Los Angeles, California 90071  
Telephone: (213) 830-5743  
Facsimile: (213) 830-5741